



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0679; FRL-9994-49-Region 10]

Air Plan Approval; OR: Infrastructure Requirements for the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA) requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is approving the Oregon Department of Environmental Quality's (ODEQ) State Implementation Plan (SIP), submitted on September 25, 2018, as meeting infrastructure requirements for the 2015 ozone NAAQS. In addition, the EPA is approving the addition of an Oregon Administrative Rule to the SIP, submitted as part of the Cleaner Air Oregon SIP submission on December 11, 2018. This rule identifies the November 2018 edition of the Code of Federal Regulations (CFR) as the CFR version referred to throughout the state's rule.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2018-0679. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION, CONTACT: Christi Duboiski, EPA Region 10, 1200 6th Ave, Suite 155, Seattle, WA 98101, (360) 753-9081 or *duboiski.christi@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

I. Background Information

On March 11, 2019, the EPA proposed to approve Oregon’s September 25, 2018, SIP submission as meeting certain infrastructure requirements of the CAA for the 2015 ozone NAAQS (84 FR 8647). We also proposed to approve, and incorporate by reference, an associated Oregon Administrative Rule (OAR) update, submitted on December 11, 2018, as part of the Cleaner Air Oregon program, which identifies the November 2018 edition of the Code of Federal Regulations (CFR) as the CFR version referred to throughout the state’s rule. The public comment period for this proposed action ended on April 10, 2019. The EPA did not receive comments on the proposal.

II. Final Action

The EPA is approving Oregon’s September 25, 2018, SIP submission as meeting specific infrastructure requirements of the Clean Air Act. We find that the Oregon SIP meets the following Clean Air Act section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are also approving,

and incorporating by reference at 40 CFR part 52, subpart MM, the OAR 340-200-0035(1) *Reference Materials*, submitted as part of the Cleaner Air Oregon SIP on December 11, 2018. The EPA is approving these SIP revisions because they are consistent with section 110 of the CAA.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference as described in section II. Final Action, above, and the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully Federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state

¹ 62 FR 27968 (May 22, 1997).

law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60**

days after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 21, 2019.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart MM—Oregon

2. Amend § 52.1970 as follows:

a. In paragraph (c), table 2, by revising the entry “200-0035”; and

b. In paragraph (e), table 5, by:

i. Revising the undesignated heading for “110(a)(2) Infrastructure and Intersate Transport”; and

ii. Adding an entry for “Infrastructure for the 2015 ozone NAAQS” immediately after the entry for “2015 Ozone NAAQS Interstate Transport”.

The revisions and addition read as follows:

§ 52.1970 Identification of plan.

*	*	*	*	*
(c)	*	*	*	

TABLE 2 - EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)¹

State citation	Title/subject	State effective date	EPA approval date	Explanations
		*	*	*
Division 200—General Air Pollution Procedures and Definitions				
		*	*	*

200-0035	Reference Materials	12/11/2018 and 4/16/2015	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation] and 10/11/2017, 82 FR 47122	OAR 200-0035(1); OAR 200-0035(2) and (3) previously approved.
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¹ EPA's approval is limited to the extent the provisions relate to section 110 of the Clean Air Act and determining compliance with and for purposes of implementation of SIP-approved requirements.

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(e) * * *

**TABLE 5—STATE OF OREGON AIR QUALITY CONTROL PROGRAM
APPROVED BUT NOT INCORPORATED BY REFERENCE**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
* * * * *				
110(a)(2) Infrastructure and Interstate Transport				
* * * * *				
Infrastructure for the 2015 ozone NAAQS	Statewide	10/21/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	This action addresses the following CAA section 110(a)(2) elements: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M)
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[FR Doc. 2019-11765 Filed: 6/5/2019 8:45 am; Publication Date: 6/6/2019]